

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

FEB 05 2019

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SPOKANE, WASHINGTON

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT DVORAK,  
CHRISTOPHER FAYDO, and  
SHAWNEE BIRDTAIL

Defendants.

2:19-CR-00008-SAB  
SUPERSEDING INDICTMENT

Vio: 21 U.S.C. § 841(a)(1), (b)(1)(B)(i)  
Possession with Intent to Distribute 100  
grams or More of a Mixture or Substance  
Containing a Detectable Amount of Heroin  
(Count 1)

21 U.S.C. § 841(a)(1), (b)(1)(B)(viii)  
Possession with Intent to Distribute 50  
grams or More of a Mixture or Substance  
Containing a Detectable Amount of  
Methamphetamine  
(Count 2)

18 U.S.C. §§ 922(g)(3), 924(a)(2)  
Unlawful User of Controlled Substances in  
Possession of Firearms (Counts 3 and 5)

21 U.S.C. §§ 841(a)(1), 846  
Conspiracy to Distribute Controlled  
Substances (Count 4)

18 U.S.C. § 1071  
Harboring a Fugitive from Justice (Count 6)

Forfeiture Allegations  
18 U.S.C. § 924, 21 U.S.C. § 853,  
28 U.S.C. § 2461

1 The Grand Jury charges:  
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3 COUNT 1

4 On or about December 28, 2018, in the Eastern District of Washington, the  
5 Defendant, ROBERT DVORAK, did knowingly and intentionally possess with the  
6 intent to distribute 100 grams or more of a mixture or substance containing a  
7 detectable amount of Heroin, a Schedule I controlled substance, all in violation of 21  
8 U.S.C. § 841(a)(1), (b)(1)(B)(i).

9 COUNT 2

10 On or about December 28, 2018, in the Eastern District of Washington, the  
11 Defendant, ROBERT DVORAK, did knowingly and intentionally possess with the  
12 intent to distribute 50 grams or more of a mixture or substance containing a detectable  
13 amount of Methamphetamine, a Schedule II controlled substance, all in violation of 21  
14 U.S.C. § 841(a)(1), (b)(1)(B)(viii).

15 COUNT 3

16 On or about December 28, 2018, in the Eastern District of Washington, the  
17 Defendant, ROBERT DVORAK, being an unlawful user of controlled substances, to  
18 wit: Methamphetamine, did knowingly possess in and affecting interstate and foreign  
19 commerce, firearms, to wit:

- 20 - Remington, model 770, 7mm Rem Mag rifle, bearing serial number  
21 M71981332;
- 22 - Sig Sauer Sp2022, 9mm handgun, bearing serial number 24B283876
- 23 - Thompson Center Arms rifle, bearing serial number 94535 (with two barrels  
24 (25-06 Remington and 300 Winchester Mag));
- 25 - Smith and Wesson, model MP15-22, .22 caliber rifle, bearing serial number  
26 DVE9642;
- 27 - Sun City Machinery, model Stevens 320, 12 gauge shotgun, bearing serial  
28 number 153426Q;

- Mossberg and Sons, model 320k, .22 caliber rifle, bearing no serial number;
- Stevens model 320, 12 gauge shotgun, bearing serial number 162307B;
- High Standard (brand name JC Higgins), model 20, 12 gauge shotgun, bearing no serial number;
- Savage, model 94C, .410 gauge shotgun, bearing no serial number;
- Hi-Point, model 4095, .40 caliber rifle, bearing serial number H49888;
- Hi-Point, model 995, 9mm caliber rifle, bearing serial number F14550;
- Bushmaster, model XM15-E2S, .223 caliber rifle, bearing serial number L520323;
- Smith and Wesson, model MP15, .556 caliber rifle, bearing serial number SZ28161; and
- Titan, model Titan, .25 caliber pistol, bearing serial number 156965;

which firearms had theretofore been transported in interstate and foreign commerce, in violation of 18 U.S.C. §§ 922(g)(3), 924(a)(2).

#### COUNT 4

Beginning on a date unknown, but at least by on or about October 1, 2018, and continuing until on or about January 12, 2019, in the Eastern District of Washington, the Defendants, ROBERT DVORAK and CHRISTOPHER FAYDO, did knowingly and intentionally combine, conspire, confederate and agree together with each other and with other persons, both known and unknown, to commit the following offenses against the United States, to wit: Distribution of a Controlled Substance – Heroin and Methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(i), (b)(1)(B)(viii); all in violation of 21 U.S.C. § 846.

#### COUNT 5

On or about December 28, 2018, in the Eastern District of Washington, the Defendant, SHAWNEE BIRDTAIL, being an unlawful user of controlled substances, to wit: Heroin, did knowingly possess in and affecting interstate and foreign commerce, a firearm, to wit: a Sig Sauer Sp2022, 9mm handgun, bearing serial

1 number 24B283876, which firearm had theretofore been transported in interstate and  
2 foreign commerce, in violation of 18 U.S.C. §§ 922(g)(3), 924(a)(2).

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COUNT 6

On or about January 9, 2019, in the Eastern District of Washington, the Defendant, SHAWNEE BIRDTAIL, harbored and concealed ROBERT DVORAK, a person for whose arrest a warrant and process had been issued under the provisions of the law of the United States, so as to prevent the discovery and arrest of ROBERT DVORAK, after notice and knowledge of the fact that a warrant and process had been issued for the apprehension of ROBERT DVORAK, and which warrant had been issued on a felony charge, in violation of 18 U.S.C. § 1071.

NOTICE OF CRIMINAL FORFEITURE

The allegations contained in this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to 18 U.S.C. § 924(d), 21 U.S.C. § 853, 28 U.S.C. § 2461(c).

PROPERTY CONSTITUTING PROCEEDS

Pursuant to 21 U.S.C. § 853, upon conviction of an offense in violation of 21 U.S.C. § 841 as set forth in Counts 1 and 2 of this Indictment, the Defendant, ROBERT DVORAK, shall forfeit to the United States of America, any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense and any property used or intended to be used, in any manner or part, to commit or to facilitate the commission of the offense.

If any of the property described above, as a result of any act or omission of the Defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;

- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p).

Pursuant to 21 U.S.C. § 853, upon conviction of an offense in violation of 21 U.S.C. § 841 as set forth in Count 3 of this Indictment, the Defendants, ROBERT DVORAK and CHRISTOPHER FAYDO, shall forfeit to the United States of America, any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense and any property used or intended to be used, in any manner or part, to commit or to facilitate the commission of the offense.

If any of the property described above, as a result of any act or omission of the Defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p).

#### FIREARMS AND AMMUNITION

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), upon conviction of an offense in violation of 18 U.S.C. § 922, as set forth in Count 3 of this Indictment, the Defendant, ROBERT DVORAK, shall forfeit to the United States of America, any firearms and ammunition involved or used in the commission of the offense, including, but not limited to the following:

- 1 - Remington, model 770, 7mm Rem Mag rifle, bearing serial number  
2 M71981332;
- 3 - Sig Sauer Sp2022, 9mm handgun, bearing serial number 24B283876
- 4 - Thompson Center Arms rifle, bearing serial number 94535 (with two barrels  
5 (25-06 Remington and 300 Winchester Mag));
- 6 - Smith and Wesson, model MP15-22, .22 caliber rifle, bearing serial number  
7 DVE9642;
- 8 - Sun City Machinery, model Stevens 320, 12 gauge shotgun, bearing serial  
9 number 153426Q;
- 10 - Mossberg and Sons, model 320k, .22 caliber rifle, bearing no serial number;
- 11 - Stevens model 320, 12 gauge shotgun, bearing serial number 162307B;
- 12 - High Standard (brand name JC Higgins), model 20, 12 gauge shotgun,  
13 bearing no serial number;
- 14 - Savage, model 94C, .410 gauge shotgun, bearing no serial number;
- 15 - Hi-Point, model 4095, .40 caliber rifle, bearing serial number H49888;
- 16 - Hi-Point, model 995, 9mm caliber rifle, bearing serial number F14550;
- 17 - Bushmaster, model XM15-E2S, .223 caliber rifle, bearing serial number  
18 L520323;
- 19 - Smith and Wesson, model MP15, .556 caliber rifle, bearing serial number  
20 SZ28161; and
- 21 - Titan, model Titan, .25 caliber pistol, bearing serial number 156965.

22 Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), upon conviction of an  
23 offense in violation of 18 U.S.C. § 922, as set forth in Count 5 of this Indictment, the  
24 Defendant, SHAWNEE BIRDTAIL, shall forfeit to the United States of America, any  
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1 firearms and ammunition involved or used in the commission of the offense,  
2 including, but not limited to the following:

- 3 - Sig Sauer Sp2022, 9mm handgun, bearing serial number 24B283876

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5 DATED this 5 day of February, 2019.

6 A TRUE BILL

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Forel

  
11 Joseph H. Harrington  
12 United States Attorney

  
14 Patrick J. Cashman  
15 Assistant United States Attorney